



Paper No. 5

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OFFICE OF PETITIONS

In re Application of
Liang-Ju Lu
Application No. 10/032,516
Filed: October 26, 2001
Attorney Docket No. 2316.690USRE
Title: DOUBLE FERRULE SC CONNECTOR
AND ADAPTER

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed July 22, 2002.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. 1.136(a).

The above-identified re-issue application was filed on October 26, 2001. On March 13, 2002, applicant was mailed a "Notice to File Missing Parts of Reissue Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time and included a Certificate of Mailing dated July 15, 2002.¹

Accompanying the petition was a "Statement of Michael K. Ouyang Re: Pertinent Facts", dated July 11, 2002. Ouyang serves as the Chief Intellectual Property Counsel for assignee ADC Telecommunications. According to Ouyang, the person with firsthand knowledge, Lu made an oral refusal to sign the declaration on January 9, 2002. Also accompanying the petition

¹ July 13th and 14th fell on a Saturday and Sunday, respectively. See 37 CFR 1.7(a).

was a cover letter from Merchant & Gould to Lu, dated January 7, 2002, transmitting a copy of U.S. Patent No. 5,971,625 with a Preliminary Amendment.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that all of the inventors cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; (4) the petition fee; (4) a statement of the last known address of the non-signing inventor; and (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.

The instant petition does not satisfy requirement (2).

As to requirement (2), the declaration is not acceptable because it does not comply with 37 CFR 1.63(a)(3). The declaration executed by Michael K. Ouyang does not identify the citizenship of inventor Lu. In addition, the declaration fails to identify the mailing address and residence of Lu. See 37 CFR 1.63(c)(1). On renewed petition, applicant must submit a declaration in compliance with 37 CFR 1.63.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
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Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.


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